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Larry M. Weil, Planning Director
Steven Zimmer, Senior Planner
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
November 13, 2012 at 7:00 P.M.
West Fargo City Hall

Members Present: Tom Kiewel
Edward Sheeley
Connie Carlsrud
Frank Lenzmeier
Terry Potter
Tom McDougall
Jerry Beck
LeRoy Johnson

Others Present: Larry Weil, Steven Zimmer, Lisa Sankey, Dustin Scott, Zerek Kroll, Brad Schmidt, Paul Mahlen, John Ault, Joseph Jaskowiak, Randy Cramer, Neil Thompson, Steve Iverson, Don Dabbert, Nancy Loberg

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the October 8, 2012 meeting minutes as printed. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-53 Oakridge 3rd Addition, Subdivision & Rezoning from Agricultural to C: Light Commercial, a parcel in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, T139N, R49W, City of West Fargo, North Dakota. He indicated Commissioner Potter had a conflict and was abstaining from commenting and voting on the proposed subdivision & rezoning.

Larry reviewed the following information from the staff report:

The property is west of Veteran's Boulevard and south of 32nd Avenue East. The Developer proposes platting a portion of a larger tract and zoning the parcel Light Commercial for a commercial development. The proposed development is consistent with the City's Land Use Plan which shows this land as future commercial use.

The developer submitted an application, Area Plan and Preliminary Plat for a 10-acre commercial development. The City's Land Use Plan depicts the area along 32nd Avenue East from 4th Street East to Veteran's Boulevard and along Veteran's Boulevard developing as General Commercial. Low Density Residential is shown to the west between the commercial development and the Shadow Wood development. High Density Residential is located to the south of this proposed plat.

The City's Comprehensive Plan promotes strengthening the tax base through development of more commercial uses south of I-94 conforming to the Land Use Plan. Also, the Comprehensive Plan promotes a limited amount of convenience commercial within residential areas south of I-94 which should be sited along collector streets and have strict design considerations to integrate well within the residential areas.

The Area Plan submitted by the developer shows where the proposed subdivision is located with reference to the developer's larger tract, as well as the surrounding properties/developments which are under separate ownership. Northwest of the proposed subdivision is a commercial office area which is being developed by The Village; south is Shadow Wood development with Low & High Density Residential and west bordering the Shadow Wood development is undeveloped area designated for Low Density Residential.

The Area Plan shows connectivity to a street system for the remaining undeveloped area. Access to Veterans Boulevard must meet spacing standards of 660'. Access for Veteran's Boulevard is at the 33rd & 34th Avenue East. Full access on Veterans Boulevard would only be allowed at the south end of the property where it abuts the Shadow Wood Development with right-

in/right-out between that point and 32nd Avenue East.

The Preliminary Plat consists of two lots, one which is 146,173 ft² (Lot 1, Block 1) and the other which is 129,212 ft² (Lot 1, Block 2). Lot 1, Block 2 is proposed for a utility substation. No site plans have been submitted. The lots would be subject to the C: Light Commercial and CO: Corridor Overlay District requirements. The parcels are located on Veteran's Boulevard and 8th Street East. Access is proposed via 33rd & 34th Avenue East, with 34th Avenue East intended to be a full access connection. The streets are shown to have a right-of-way of 80' which is adequate for local commercial streets. The developer has submitted a revised Area Plan and will be submitting a revised Preliminary Plat showing 34th Avenue East being centered between property owned by the applicant and property to the south owned by Shadow Ridge Estates, LLP. The revised Preliminary Plat will include Lot 2, Block 1 of Shadow Wood 6th Addition.

Landscaping for the development will be according to the City's landscape standards for the subdivision properties and street boulevard areas. A landscape plan will be required prior to a building permit being issued. A drainage plan is required for the subdivision. Storm water retention requirements for the subdivision area are included within the regional storm retention for Section 29.

Park dedication is required for the development. The required amount of park dedication is 10% of the gross area for residential use and 5% for commercial use. The Park District's recommendations for park land dedication or cash-in-lieu of land dedication were not provided by the developer with the application, so the Park District has 30 days to provide their recommendations. The subdivision would not be forwarded to the City Commission until a park dedication agreement is in place.

Sewer and water services have not been extended to the property yet. The developer will be requesting a special improvement district for the municipal services. All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hookup fee. Arrangements for payment need to be made prior to the subdivision plat being recorded.

Notices were sent to area property owners. The City also provided the proposed development plans to City departments, Park District, Post Office, SE Cass Water Resource District, and utility companies.

It is recommended that the City Planning and Zoning Commission conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. A drainage plan is received and approved by the City Engineer.
2. Landscaping follows the landscape standards for the subdivision properties and boulevard areas.
3. A mail delivery plan is developed for the subdivision.
4. A subdivision improvement agreement is received from the developer covering the necessary improvements.
5. A park dedication agreement is received.

John Ault, 740 35th Avenue East, stated that he didn't believe Block 2 is consistent. The City's Land Use Plan depicts commercial along Veteran's Boulevard, which lines up with the apartments to the south.

Larry stated that he doesn't believe it to be inconsistent as it's not an exact distance. Also, the type of use, a utility substation, is a permitted use in all districts. Block 1 is commercial, but the use has not been defined.

Joseph Jaszowski, 748 35th Avenue East, stated that he's directly south of proposed Block 2. In terms of strict design criteria, he's trying to determine how a utility substation will be integrated into the neighborhood.

There were no other comments from the public. The hearing was closed.

Larry stated that a large electric utility substation is proposed. There are landscaping and setback standards. Preliminary site plans show it placed more to the north, with landscaping to the south for less impact.

Mr. Ault asked about setbacks and if it's proposed to be fenced. He's concerned with it abutting a residential area.

Commissioner Kiewel asked for clarification. This is still allowed even if located in a residential area? Larry stated yes and gave the example of the one located north of the middle school in an R-1A District along 9th Street East.

Brad Schmidt, Cass County Electric, stated that the minimum fence height would be 7½'. Higher fences are not practical. This substation would provide power for the entire area.

Mr. Jaszowski asked if there were any studies regarding property values being affected by power stations. Larry wasn't aware of any.

Steven stated that they're not looking at covering the entire property as is the case with the one located north of 17th Avenue, along 9th Street East.

Paul Mahlen, Minn-Kota Power, stated that they are very aware of the location and are taking residents' concerns into consideration. The south end of the property will be buffered with trees.

Mr. Jaszowski, stated concern with the future residential to the west. Steven indicated the same property owner controls all the land.

Mr. Ault asked about potential noise. Mr. Schmidt encouraged them to take a look at the substation along 9th Street East. He then described the existing substation built in the 1970s vs. the proposed one, which would be lower profile.

Commissioner Kiewel made a motion for approval based on staff recommendations. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-54 Shadow Creek 4th Addition, replat of Lot 7, Block 1 of Shadow Creek 1st Addition & parcels in the NW¼ of Section 29, T139N, R49W & NE¼ of Section 30, T139N, R49W, City of West Fargo, North Dakota and Rezoning from Agricultural to R-1A: Single Family Dwellings, a parcel in the NE¼ of Section 30, T139N, R49W, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located west of 2nd Avenue East and south of 32nd Avenue East, east of the Sheyenne River. The area was annexed into the City in 2005 and is west of the Shadow Wood Development which was initially approved in 2007. A portion of the area being platted was platted as part of Shadow Creek 1st Addition and vacated afterwards (Lots 1-6, Block 1 of Shadow Creek 1st Addition). The proposed rezoning is consistent with the City's Land Use Plan, which depicts the area as developing as Low Density Residential. The proposed use is consistent with City Plans and Ordinances.

The developer has submitted an Area Plan and Preliminary Plat. The Preliminary Plat consists of approximately ±11.4 acres of land which provides for development of 6 residential lots along a private drive which accesses 1st Street East and 35th Avenue East. The developer is requesting R-1A: Single Family Dwelling District zoning for the development. The plat shows lots along the river being accessed via a 40' private drive with a cul-de-sac turnaround at the end. This turn around, as shown on the plat, is located within the 100' riverbank stabilization setback. No structures, including roads, may be located within this setback unless a geotechnical soils study is conducted, at the expense of the developer, and determines the riverbank is stable enough to support such a structure. Any turnaround must be designed to accommodate emergency vehicles to turn around. It must also be named and signed as a private drive, at the expense of the owner.

Park dedication is required for the development. The required amount of park dedication is 10% of the gross area for the overall development. Park dedication was previously made for a significant portion of the proposed subdivision area. Only that portion of the subdivision which is in the NE¼ of Section 30 would be subject to park dedication. The staff has sent the subdivision plat to the Park District for their review and recommendations. By ordinance the Park District has 30 days to provide a recommendation.

All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hookup fee. Only that portion of the subdivision which is in the NE ¼ of Section 30 would be subject to the hookup fee. Arrangements for payment need to be made prior to the subdivision plat being recorded.

Notices were sent to area property owners. The City also provided the proposed development plans to City departments, Park District, Post Office and Utility Companies. The Park District is still reviewing the subdivision and likely will not have a recommendation prior to the Planning and Zoning Commission meeting.

It is recommended that the subdivision plat and rezoning request be conditionally approved on basis the request is consistent with City plans and ordinances. The conditions of approval for the application are as follows:

1. An Attorney Title Opinion is received.
2. A certificate of taxes showing taxes being current is received.
3. A Drainage Plan is received and approved by the City Engineer.
4. The private access turnaround is located off the Sheyenne River building control line unless otherwise supported by a geotechnical soil analysis.
5. A Final Plat is received with any necessary utility easements.
6. The Final Plat is not approved until the City receives recommendations from the Park District, as well as a park dedication agreement.
7. The required utility hook-up fee is adequately addressed.
8. A CBU location plan is reviewed and approved by the Post Office and City.
9. A Subdivision Improvement Agreement is received.
10. Restrictive covenants are received if applicable.

There were no comments from the public. The hearing was closed.

Commissioner Sheeley asked if they were planning to have a geotech study done or move the road. Larry indicated he hadn't heard yet.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-55 Timber Ridge 1st Addition, Subdivision & Rezoning from Agricultural to R-1A: Single Family Dwellings and R-1: One & Two Family Dwellings, parcel in the N½ of Section 19, T139N, R49W, City of West Fargo, North Dakota. He indicated Commissioner Sheeley would be abstaining from commenting or voting on the application.

Larry reviewed the following information from the staff report:

The property, which is located south of I-94 and west of Sheyenne Street, is currently zoned Agriculture and is being farmed. The area was annexed into the City in December 2005. The applicant proposes to develop much of the property with single family dwellings and twin homes leaving a part of the area agricultural for future use. The proposed uses are consistent with City Plans and Ordinances.

The applicant has recently purchased the property and proposes a residential subdivision with urban infrastructure improvements. The developer has submitted an Area Plan and Preliminary Plat which shows the proposed subdivision and future development of the property to the east. The Land Use Plan depicts the area developing with Low Density Residential except for the area along Sheyenne Street which is depicted as Medium Density Residential. The proposed land use as shown in the area plan includes single family & twin home dwellings west of Sheyenne Street and park/retention facilities, which are consistent with the plan.

The Area Plan shows the area being platted, as well as the balance of the area the developer would develop in the second phase of development. The area plan for the property to the south should be considered, particularly when the second phase of development occurs so that the local street system is adequately provided for. It would be appropriate for the Area Plan to provide a street connection north-south between 9th Street West and the westerly street to provide connectivity north and south and to shorten the block between streets.

The Preliminary Plat was revised to increase the size of the lots within the cul-de-sac street area, and the plat shows mostly single family detached lots. Twin home lots are shown within the cul-de-sac streets except for on the cul-de-sac where single family detached units are provided for. The zoning requested for the development is R-1A: Single Family Dwelling District

for the area west of 9th Street West. The area between Sheyenne Street and west of 5th Street West is proposed to remain Agricultural and intended to be rezoned for development at a later date. The remaining area of the subdivision from west of 5th Street West and 9th Street West is proposed to be zoned & R-1: One and Two Family Dwelling District.

Adequate street right-of-way is shown for all the local streets within the subdivision. The Collector Street, 9th Street West, shows a total of 100' of right-of-way as it is proposed to accommodate a pedestrian/bikeway facility which will extend to the south to connect to an existing facility. The Collector Street connecting 9th Street West to Sheyenne Street is proposed to be 80' in width. Sheyenne Street is a Minor Arterial Street which should show a minimum of 150' of total right-of-way. The street should be shown on the plat with a width of 75' from the street centerline.

The street named 21st Avenue West on the Preliminary Plat should be renamed to 24th Avenue West, as the east-west street farther north is 21st Avenue West. The street named 23rd Avenue West on the Preliminary Plat should be renamed to 26th Avenue West. The east-west Collector Street (26th Avenue West) shows single family lot access to the street which is not allowed on collector streets. It would be appropriate for the street to be repositioned to the south along the plat boundary (quarter section line) between Sheyenne Street and 9th Street West. The residential lots would be redesigned to be within the cul-de-sac streets. The east-west Collector would be best placed on the Section quarter line and shared between this development and the property to the south. We would need to obtain agreement from the property owner and either have the right-of-way dedicated on the plat or get a road easement until it is platted.

The Park District is reviewing the proposed park dedication for the development encompassed within the Area Plan. Once the City receives communication from the Park District, and the park is shown on the Area Plan, we will develop a park dedication agreement. The agreement should be in place prior to City Commission consideration.

A hook-up fee is required for all subdivisions south of I-94 which benefit from the major sewer extension services installed through City financing. The hook-up fees for the area being platted can be included within the assessment district.

Notices and maps were sent to area property owners, Park District, Post Office, City departments, SE Cass Water Resource District, and utility companies.

It is recommended to conditionally approve the Preliminary Plat on the basis that it is consistent with City plans and ordinances. The conditions of approval include the following:

1. An Attorney Title Opinion is received.
2. A drainage plan is received and approved by the City Engineer.
3. Final Plat with changes noted above and any necessary easements.
4. A revised area plan is received showing current and recommended changes for future phase.
5. A certificate is received showing taxes are current.
6. A park dedication agreement is received.
7. Restrictive covenants for the development are received for filing with the plat if proposed.
8. A subdivision improvement agreement is received.
9. The Developer is responsible for submitting a cluster box location plan to the Post Office for approval and assuming the costs for the boxes and installation costs.

Nancy Loberg asked if Commissioners had received her letter of protest and indicated she was available to answer any questions. Chair Lenzmeier indicated he got the letter this afternoon and copies had been provided to commissioners.

There were no other comments from the public. The hearing was closed.

Commissioner McDougall asked about the proposed 9th Street West connection between this subdivision and Eagle Run and if the only access to the proposed subdivision would be via Sheyenne Street until property to the south developed. Larry stated that the area plan for Eaglewood reflected the north south connection, as would any future developments.

Chair Lenzmeier asked if the Fire Department had a chance to review the access. Steven indicated that they had. Also, there are two access points into the development.

Discussion was held regarding 26th Avenue along the section line, as well as the tree line. Larry stated that the developer to

the south was contacted regarding the road and they have not yet responded.

Commissioner Kiewel asked about the 21st Avenue access. Larry stated that it's right on the Diversion tie-back road, there would need to be an agreement with SE Cass Water Resource District regarding an easement, improvements and maintenance.

Commissioner McDougall asked about the large lot along Sheyenne Street, as well as the long lot on the west side of 5th Street West. Larry stated that they will remain agriculturally zoned for now. Future Land Use Plans show the lot to the east developing as Medium Density Residential and the one to the west as Low Density Residential.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-56 Schmitz and Brennan Subdivision, Subdivision in the NW¼ of Section 10, T139N, R50W (Mapleton Township), Cass County, North Dakota.

Steven reviewed the following information from the staff report:

The property is located in West Fargo's Extraterritorial jurisdiction, along the south side of I-94, west of the Raymond interchange. The proposed subdivision will help to establish clear legal descriptions for the area.

The applicant proposes subdividing a 5.52 acre property from a larger tract that is zoned for heavy commercial use. The proposed subdivision includes a pole building that is currently being leased out to the applicant for use as vehicle storage and seasonal firework sales.

Notices were sent to City departments, Park District, Cass County Planning, Mapleton Township, SE Cass Water Resource District, the ND-DOT and Utility Companies. The ND-DOT indicated that access points would not be able to be moved, enlarged or added without their approval. Any access alterations need to go through them.

Staff recommends approval with the following conditions:

1. An Attorney Title Opinion is received.
2. A certificate is received showing taxes are current.
3. A drainage plan is received and approved by the City Engineer.
4. A Final Plat is received with necessary easements.
5. Take into consideration any governmental comments.
6. A Subdivision Improvement Agreement is received.

There were no comments from the public. The hearing was closed.

Commissioner Johnson stated that he'd heard the proposed Red River Diversion was going to be located west of the Raymond Interchange and asked if it was going to go through this property. Discussion was held regarding the proposed diversion.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Beck seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-57 Conditional Use Permit for hair salon at 1438 Elmwood Court (Lot 22, Block 2 of Sheyenne Park 3rd Addition), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located south of 13th Avenue West, east of 8th Street West, on the west side of Elmwood Court. The applicant has been running a hair salon for a number of years and would like to work from home. The proposed use would be allowable as a conditional use within the R-1A: Single Family Dwelling District.

The applicant has submitted an application for a conditional use permit and intends to add onto her home to allow for a hair salon. The property has a double-stall garage and two-stall driveway which accesses Elmwood Court. Home based businesses are required to provide off-street parking for customers in addition to the two required spaces for all single family residential units. Currently the property can accommodate 2 on-site/off-street parking spaces in addition to the two spaces in the garage for the residential use. All spaces are constructed of a durable material, concrete or asphalt.

New information submitted showed two stations, which means an additional parking space would need to be provided for another customer for a total of 5 required for the property.

Notices have been sent to property owners within 350'. We have received a comment from a neighbor concerned with the parking situation stating that there are cars in the driveway and there will not be off-street spaces available. The neighbor is opposed to the proposed hair salon use. There have been additional calls regarding parking concerns as well as personal issues, which have no bearing on the application.

Staff recommends conditional approval only if ALL of the following conditions are met:

1. Adequate off-street parking spaces are provided to meet city code requirements.

Steven stated that an additional condition could be added that vehicles currently taking up space on the driveway be removed prior to the application going on to the City Commission.

Based on concerns from the neighboring property owners, the commission could delay action and ask the property owner to attend the meeting to address concerns.

There were no comments from the public. Chair Lenzmeier did not close the public hearing.

Discussion was held regarding parking. Steven stated that they need two for the house, one for the homeowner's customers, one for an employee and one for that person's customer. They also need to clarify the use, if it will primarily be a hair salon or if other services would be offered.

Commissioner Potter made a motion to continue this until the applicant can attend the meeting to answer questions. Commissioner McDougal seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-58 Variance to reduce side yard setback from 5' to 4.18' for residential structure at 1938 2nd Avenue East Lot 3, Block 1 of Meadow Ridge 12th Addition), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property, which is located on 2nd Avenue East and west of 45th Street, was platted in the early 1990s and developed with single family dwellings. In August when the applicant applied for a replat, it was determined his home was 4.18' from the side property line instead of the required 5'.

The applicant is requesting a variance to reduce the side yard setback from 5' to 4.18. Under the Zoning Ordinance, where a property owner proves that extraordinary hardship would result from the strict interpretation of this ordinance, the City may grant a variance from the regulations.

It appears that it may be justified to approve a variance in this situation since the situation was created by the homebuilder before the current owner was involved. Since the circumstance existed prior to this applicant buying the properties and that it is for less than one foot, staff feels a variance can be justified.

Area property owners within 150' of the variance have been notified and no comments have been received.

Staff recommends approval.

There were no comments from the public. The hearing was closed

Applicant Kevin Olson indicated he'd lived in the house for about 16 years and rented out the one to the west for a number of years. He uses both storage buildings for personal storage.

Commissioner Beck asked if the variance was for less than a foot. Steven indicated .82'

Commissioner McDougall made a motion for approval. Commissioner Beck seconded the motion. No opposition. Motion carried.

The item on the agenda was A12-59 Simple Lot Split Lot 2, Block 2 of Sterling Industrial Park 2nd Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located on the east side of 13th Street NE, south of 7th Avenue NE. The applicant proposes to divide Lot 2, Block 2 of Sterling Industrial Park 2nd Addition. The proposed lot split is consistent with City plans and ordinances.

The applicant has submitted an application for a Simple Lot Split and a survey of the proposed lot split with new legal descriptions. After the split Tract A would be 16,831 ft² and Tract B would be 17,833 ft². There is currently a building located on Tract B which the applicant will sell if approved. Currently there are two access points for this lot, which will coincide with the new accesses for Tracts A & B. The access on the south east side off of 5th Ave NE will be the access for Tract B and the west access off of 13th St NE will be the access for Tract A.

Property owners within 150', City Departments and utility companies were notified.

Staff recommends approval with the following conditions:

1. Deeds for the newly created lots (tracts) are filed with Cass County and verification provided to the City.
2. The existing building is given a new address.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was Detailed Development Plans – A12-46 South Pond at the Preserve 6th Addition.

Steven indicated that they also plan to submit a list of allowed uses. The developers intend to construct building A first, then the site work for building B. There is the potential for building C to be a 2-story office building. Also, being they have more parking than required, they may remove spaces to allow for a drive-thru. They still need to submit a description for the development signage.

Don Dabbert, Don Dabbert Construction, stated that he has contracts for the lots to the west abutting this development and is concerned with the wall of garages in the back yard and the lack of buffering. Steven stated that under the landscaping ordinance there needs to be a minimum of 10' between the structures and yard. The developers don't intend to fence, but will provide plantings and greenspace.

Mr. Dabbert stated that there is no access from the residential area into the commercial area. It doesn't promote walkability.

Steven stated that it was brought up to the developer and property owners.

Commissioner McDougall made a motion for approval of the detailed development plans. Commissioner Beck seconded the motion. No opposition. Motion carried.

The next items on the agenda were A12-24 Vibuck Addition, Subdivision, Rezoning from Ag to R-3: Multiple Dwellings & C: Light Commercial & Land Use Plan Amendment from Office Park to High Density Residential & General Commercial property in the SE¼ of Section, 18, T139N, R49W, City of West Fargo, North Dakota; and A12-25 WVP Addition, a Subdivision, Rezoning from Ag to R-3: Multiple Dwelling & PUD: Planned Unit Development and Land Use Plan Amendment from Medium & High Density Residential to High Density Residential & General Commercial of property in

the NW¼ of Section 18, T139N, R49W (Barnes Township), Cass County, North Dakota.

Larry stated that the applicant had indicated he was going to attend the meeting and formally withdraw the applications.

Commissioner McDougall made a motion to withdraw the two applications. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Commissioner McDougall made a motion to adjourn. Meeting adjourned.